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**UNITED STATES BANKRUPTCY COURT**

**NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

**IN RE:**

David M Laz

Case No.: 18-16460

Chapter: 7

Hearing Date: 7/6/18

Debtor(s)

Judge Janet S. Baer

**NOTICE OF MOTION**

**TO:** Brenda Porter Helms, Interim Trustee, 3400 W Lawrence, Chicago, IL 60625 by electronic notice through ECF

David M Laz, Pro Se Debtor(s), 2110 Babst ct., Lisle, IL 60532

PLEASE TAKE NOTICE that on the 7/6/18, at 11:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Janet S. Baer, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Kane County Courthouse 100 S. Third Street, Geneva, Illinois, room 240, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on June 28, 2018 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on June 28, 2018.

/s/ Jose Moreno

Attorney for Movant

Berton J. Maley ARDC#6209399

Rachael A. Stokas ARDC#6276349

Gloria C. Tsotsos ARDC#6274279

Jose G. Moreno ARDC#6229900

Peter C. Bastianen ARDC#6244346

Joel P. Fonferko ARDC#6276490

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**Codilis & Associates, P.C.**

15W030 North Frontage Road, Suite 100

Burr Ridge, IL 60527

(630) 794-5300

**C&A FILE (14-15-07778)**

NOTE: This law firm is a debt collector.

**CERTIFICATE OF SERVICE**

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/s/ Jose Moreno

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

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**NOW COMES** Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2 (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and Internal Operating Procedure 15(a) of the United States District Court for the Northern District of Illinois;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 2110 Babst Ct, Lisle, IL 60532;
3. This security interest arose from a Note and Mortgage, executed on 6/12/2006, in the amount of \$484,500.00;
4. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 6/8/18;

5. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:

- a. The Debtor is in default in the performance of the terms and conditions of said Note and Mortgage;
- b. As of 06/27/2018, the Debtor(s) is/are contractually due for the 9/1/08 payment and all amounts coming due since that date. Any payments received after this date may not be reflected in this default;
- c. As of 06/27/2018, the estimated default through and including 6/1/18 is \$744,284.44. Any payments received after this date may not be reflected in this default;
- d. As of 06/27/2018, the estimated payoff amount is \$1,181,299.45. The estimated fair market value of the property is \$500,000.00, per Debtor's Schedules. That to the best of Movant's knowledge, no non-exempt equity exists in the subject property or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate;
- e. The above is especially true when considering the cost of selling the property, as outlined below:

Fair Market Value: \$500,000.00

Less Lien Payoff and Cost of Sale:

Estimated Payoff: \$1,181,299.45

Payoff of Other Liens: \$3,650.00

Broker's Commission (6% of FMV): \$30,000.00

Other Closing Costs (estimated): \$2,000.00

Net Proceeds of Sale: (\$716,949.45)

(assuming no capital gains need to be paid)

6. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding which have not been included in the calculation of any default figures quoted herein including:

\$750.00 for Preparation of Notice and Motion for Relief from the Automatic Stay, and prosecution of same  
\$181.00 for Court filing fee

7. Ocwen Loan Servicing, LLC services the underlying mortgage loan and note for the property referenced in this Motion for Relief for Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2 (the noteholder) and is entitled to proceed accordingly. Should the Automatic Stay be lifted and/or set aside by Order of this Court or if this case is dismissed or if the debtor obtains a discharge and a foreclosure action is commenced or recommenced, said foreclosure action will be conducted in the name of Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2 (the noteholder). Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2 (the noteholder) has the right to foreclose because: Noteholder is the original mortgagee or beneficiary or assignee of the security instrument for the referenced loan. Noteholder directly or through an agent has possession of the promissory note and the promissory note is either made payable to Noteholder or has been duly endorsed.

8. The Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

**WHEREFORE,** Deutsche Bank National Trust Company, as Trustee for Morgan Stanley Ixis Real Estate Capital Trust 2006-2 Mortgage Pass Through Certificates, Series 2006-2 prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this June 28, 2018.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Jose Moreno

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